उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A.(C) No. 962 **सन्** 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश		कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	APPELLANT: DEFENDANT NO.3		The Oriental Insurance Company Limited, Through – the Divisional Manager, Divisional Office, Bilaspur (C.G.) (Insurer of the offending vehicle)
		-Versus-	
	RESPONDENTNO.1: CLAIMANT NO.1	1.	Jai Kumari Bai, widow of Late Vimal Alias Prakash Chandra Rai, aged about 30 years,
	RESPONDENT NO.2: CLAIMANT NO.2	2.	Praveen Kumar, son of Vimal Alias Prakash Chandra Rai, aged about 12 years (Minor)
	RESPONDENT NO.3: CLAIMANT NO.3	3.	Hemant Kumar son of Vimal Alias Prakash Chandra Rai, aged about 7 years (Minor)
	RESPONDENT NO.4: CLAIMANT NO.4	4.	Ku. Yogeshwari, Daughter of Late Vimal Alias Prakash Chadra Rai, aged about 6 months (Minor)
	RESPONDENT NO.5: CLAIMANT NO.5	5.	Dashoda Bai, widow of Late Pulambar aged about 55 years, Minors No. 2 to 4 – through – their natural guardian mother-Jai Kumari Bai, widow of Late Vimal Alias Prakash Chandra Rai, aged about 30 years, All are resident of village Vicharpur, PO Manoharpur,

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
		P.S. Lalpur, Tahsil Lormi, District Bilaspur (C.G.)
	RESPONDENT NO.6: DEFENDANT NO.1	6. Manik Lal, aged about 44 years, son of Shri Mitthulal, Driver, Tractor No. C.G. 12 F/0887 Trolley No. C.G. 12 F/0889, resident of village Surda, P.S. and Tahsil Mungeli, District Bilaspur (C.G.) (DRIVER)
	RESPONDENT NO.7: DEFENDANT NO.2	7. Shankar Singh son of Ram Prasad, aged about 54 years, Vehicle owner- Tractor No.C.G. 12F/0887 Trolley No. C.G. 12 F/0889, resident of village Nawapara, P.S. Pali, District Korba (C.G.) (OWNER)

(Miscellaneous Appeal under Section 173 of the Motor Vehicle Act)

Division Bench: -

Hon'ble Shri L.C. Bhadoo &

Hon'ble Shri Sunil Kumar Sinha, JJ.

21-8-2007:-

Shri Sankalp Jaiswal, counsel for the appellant.

Oral order dictated on *Dais*.

L.C. BHADOO, J.

The Oriental Insurance Company has preferred this appeal under section 173 of the M.V. Act, 1988 being aggrieved by the award dated 11-

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

6-2007 passed by the Additional Motor Accidents Claims Tribunal, Mungeli, in Claim Case No.88/2006 whereby learned Tribunal after assessing annual dependency of the claimants to the tune of Rs.37,800/- & applying multiplier of 17, assessed total dependency at Rs.6,42,600/-, Rs.10,000/- has been allowed towards loss of consortium to the widow of the deceased, against heading loss of love & affection Rs.5,000/- each has been awarded to the children and mother, Rs.4,000/- has been awarded against funeral expenses.

We have heard learned counsel for the appellant.

Learned counsel for the appellant submitted that the Tribunal has wrongly deducted 1/4th of the income of the deceased as personal expenses whereas it ought to have been deducted 1/3rd. He further submitted that monthly income of the deceased has also been assessed at Rs.4200/- which is on higher side.

As far as first argument is concerned, the deceased had left behind one widow aged about 30 years, widow mother aged about 55 years & 3 children aged about 12 years, 7 years & 6 months, therefore, if one unit of widow, one unit of mother & one unit of 3 children is taken, then the Tribunal has rightly deducted ¼ of the personal expenses. Unit has to be formed looking to the size of the family of the deceased. In this case, the Tribunal has formed 4 units which is just and reasonable, looking to the number of the family members.

As far as question of income of the deceased is concerned, as per the evidence, he was doing the work of upholstery, therefore, he was skilled labour, he was working in the city of Bilaspur which is District Headquarter, therefore, it cannot be said that income of the deceased has

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

been assessed on higher side. Rs.140/- per day paid to skilled labour cannot be considered in any manner on higher side. The income has rightly been assessed.

As far as against heading loss of consortium Rs.10,000/- has been allowed is concerned, looking to the age of the wife and cost of living, it is also not on higher side.

In the circumstances, we are of the considered opinion that just, fair and reasonable claim has been awarded by the Tribunal. Therefore, we do not find any substance in this appeal, same is liable to be dismissed and it is hereby dismissed.

Sd/-
L.C. Bhadoo
Judge

Sd/-
Sunil Kumar Sinha
Judge